

REMARKS/ARGUMENTS

Favorable consideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-32 are pending in the application. Claims 25 and 29 are amended and new Claims 31 and 32 are added by the present amendment. As amended Claims 25 and 29 and new Claims 31 and 32 are supported by the original disclosure,¹ no new matter is added.

In the outstanding Office Action, Claims 1-30 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1-19 of U.S. Patent Application No. 10/716,483; Claims 1-30 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 14-17, 19-23, 27, 42, 45, and 47-50 of U.S. Patent Application No. 10/062,671; the drawings were objected to; Claims 12-30 were rejected under 35 U.S.C. § 112, second paragraph; Claim 12 was objected to; Claims 1, 4, 5, 12, 15, and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Clark et al. (U.S. Patent No. 6,784,869, hereinafter “Clark”) in view of Briffe et al. (U.S. Patent No. 6,112,141, hereinafter “Briffe”); Claims 1-3, 7-9, 11-14, 18-20, and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Clark in view of Ebert et al. (U.S. Patent No. 5,931,874, hereinafter “Ebert”); Claims 6, 17, 26, and 30 were rejected under 35 U.S.C. § 103(a) as unpatentable over Clark in view of Briffe and further in view of Yoshino et al. (U.S. Patent No. 5,548,304, hereinafter “Yoshino”); Claims 10 and 21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Clark in view of Ebert and further in view of Oder et al. (U.S. Patent No. 5,475,594, hereinafter “Oder”); and Claims 23 and 27 were rejected under 35 U.S.C. § 103(a) as unpatentable over Clark in view of Ebert and further in view of Muller et al. (U.S. Patent No. 6,072,473, hereinafter “Muller”).

Claims 25 and 29 are amended to correct informalities.

¹See, e.g., the specification at page 11, lines 14-18.

With regard to the provisional non-statutory double patenting rejections of Claims 1-30 in view Claims 1-19 of U.S. Patent Application No. 10/716,483 and Claims 14-17, 19-23, 27, 42, 45, and 47-50 of U.S. Patent Application No. 10/062,671, these rejections are respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

With regard to the statements in paragraphs 6 and 8 that the allegedly conflicting claims must be canceled, it is respectfully noted that the claims of the present application **do not conflict** with the claims of the other application merely because a single element is allegedly included in the claims of two applications. As none of the claims of the present application are identical to any of the claims of U.S. Patent Application Nos. 10/716,483 and 10/062,671, and applicant has not (and does not) concede that any of the claims are patentably indistinct, the claims of the present application do not conflict with any of the claims of U.S. Patent Application Nos. 10/716,483 and 10/062,671 and thus do not need to be canceled from the present application. See MPEP §822.

With regard to the objection to the drawings, it is respectfully noted that all of the labels listed in the outstanding Office Action are in fact included on Figure 1. A highlighted copy of Figure 1 is included herewith to illustrate this fact. Accordingly, the objection to the drawings is believed to be overcome.

With regard to the rejection of Claims 12-30 under 35 U.S.C. §112, second paragraph, Claim 12 recites “means for displaying,” “means for moving,” and “means for causing.” All these elements properly recite a function after the “means for” phrase. (i.e. displaying at least one window including a plurality of responsive objects respectively associated with one of multiple functions of the at least one system of the aircraft) Thus, Claims 12-30 are all in proper form under 35 U.S.C. §112, sixth paragraph, and the scope of the claims is definite. Accordingly, Claims 1-30 are in compliance with all requirements under 35 U.S.C. §112, second paragraph.

With regard to the objection to Claim 12, it is respectfully noted that “court decisions have confirmed applicant's right to restate (i.e., by plural claiming) the invention in a reasonable number of ways. Indeed, a mere difference in scope between claims has been held to be enough.” MPEP §706.03(k). Accordingly, as Claims 1 and 12 have different scopes, it is respectfully submitted that Claim 12 is not a substantial duplicate of Claim 1. Consequently, the objection to claim 12 is believed to be overcome.

With regard to the rejections of Claim 1 as unpatentable over Clark in view of Briffe or Clark in view of Ebert, those rejections are respectfully traversed.

Claim 1 recites in part:

an auxiliary control device including a discrete moving mechanism configured to cause a discrete displacement of an auxiliary object marker on the display, responsive object by responsive object, so as to designate another responsive object without affecting control of the main object marker.

Clark describes a display management system including cursor control device (CCD) 212 that includes a touch screen 212d to move a *single* cursor on a display screen and switches 212a₁, 212a₂, and 212a₃ to move the *same* cursor from one screen to another screen.² Thus controls 212a₁, 212a₂, and 212a₃ *do not move an auxiliary cursor discretely in*

²See Clark, column 5, lines 57-60 and column 6, lines 26-28.

the display from one responsive object to another responsive object. In fact, there is no teaching or suggestion in Clark that the movement of the same cursor from screen to screen is from one responsive object to another. Thus, Clark does not teach or suggest “an auxiliary control device” or “an auxiliary control marker” as recited in Claim 1. Neither Briffe nor Ebert teach or suggest “an auxiliary control device” as recited in Claim 1 either.

Further, there is no suggestion or motivation to modify the device of Clark to create the claimed invention. If controls 212a₁, 212a₂, and 212a₃ did move a *second* cursor discretely, responsive object by responsive object, there would be no way to move the *first* cursor from screen to screen. Accordingly, the first cursor would be unsuitable for its intended purpose, which is to be available for use on all the screens of the display management system.³ Well settled case law holds that if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). See also MPEP §2144.03. Thus, there is no suggestion or motivation to make the proposed modification to Clark.

Accordingly, as none of Clark, Briffe, or Ebert teach or suggest “an auxiliary control device” as recited in Claim 1, and there is no suggestion or motivation to modify Clark as proposed, Claim 1 (and Claims 2-11, 23-26, and 31 dependent therefrom) is patentable over Clark in view of Briffe and Clark in view of Ebert.

Claim 12 recites similar elements to Claim 1. Accordingly, Claim 12 (and Claims 13-22, 27-30, and 32 dependent therefrom) is patentable over Clark in view of Briffe and Clark in view of Ebert for at least the reasons described above with respect to Claim 1.

With regard to the rejection of Claims 6, 17, 26, and 30 as unpatentable over Clark and Ebert in view of Yoshino, it is noted that Claims 6, 17, 26, and 30 are dependent from

³See Clark, column 6, lines 40-42.

Claims 1 and 12, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Yoshino does not cure any of the above-noted deficiencies of Clark and Ebert. Accordingly, it is respectfully submitted that Claims 6, 17, 26, and 30 are patentable over Clark and Ebert in view of Yoshino.

Moreover, Claims 26 and 30 recite subject matter that further defines over Clark and Ebert in view of Yoshino. Claim 26 recites “the cursor control device and the auxiliary control device are configured so that control of the main object marker by the cursor control device has priority over control of the auxiliary object marker by the auxiliary control device when both markers are on a same window.” (Claim 30 recites similar subject matter to Claim 26 in “means plus function” format.)

The outstanding Office conceded that Clark and Ebert do not teach or suggest the above-quoted element and cited Yoshino as describing this feature at column 12, lines 40-42.⁴ However, the cited portion of Yoshino only describes the determination of priority for selecting accessing and changing pages of information, *not priority of control of movement*. In fact, Yoshino does not teach or suggest that any of the described cursors has a priority of movement over any other (i.e. all cursors can move independently). Thus, Claims 26 and 30 recite subject matter that further defines over Clark and Ebert in view of Yoshino.

With regard to the rejection of Claims 10 and 21 as unpatentable over Clark and Ebert in view of Oder, it is noted that Claims 10 and 21 are dependent from Claims 1 and 12, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Oder does not cure any of the above-noted deficiencies of Clark and Ebert. Accordingly, it is respectfully submitted that Claims 10 and 21 are patentable over Clark and Ebert in view of Oder.

⁴See the outstanding Office Action at page 12, lines 7-12.

With regard to the rejection of Claims 23 and 27 as unpatentable over Clark and Ebert in view of Muller, it is noted that Claims 23 and 27 are dependent from Claims 1 and 12, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Muller does not cure any of the above-noted deficiencies of Clark and Ebert. Accordingly, it is respectfully submitted that Claims 23 and 27 are patentable over Clark and Ebert in view of Muller.

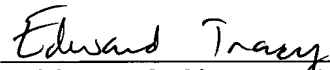
New Claims 31 and 32 are supported at least by the specification at page 11, lines 14-18. As Claims 31 and 32 are dependent from Claims 1 and 12, Claims 31 and 32 are believed to be patentable for at least the reasons discussed above. In addition, Claims 31 and 32 recited subject matter that further defines over the cited references. As noted above, Clark describes two control devices for moving the same cursor. Accordingly, Clark does not describe “a main object marker” and “an auxiliary object marker” Thus, Clark cannot teach or suggest “wherein when the main object marker and the auxiliary object marker designate a same responsive object, the auxiliary object marker disappears” as recited in Claims 31 and 32. Further, it is respectfully submitted that none of the other cited references teaches or suggests this feature either. Accordingly, Claims 31 and 32 are patentable over the cited references.

Application No. 10/716,535
Reply to Office Action of January 23, 2006

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Philippe J.C. Signore, Ph.D.
Attorney of Record
Registration No. 43,922

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Edward Tracy
Registration No. 47,998

I:\ATTY\ET\245509US\245509US-AMD5.23.06.DOC

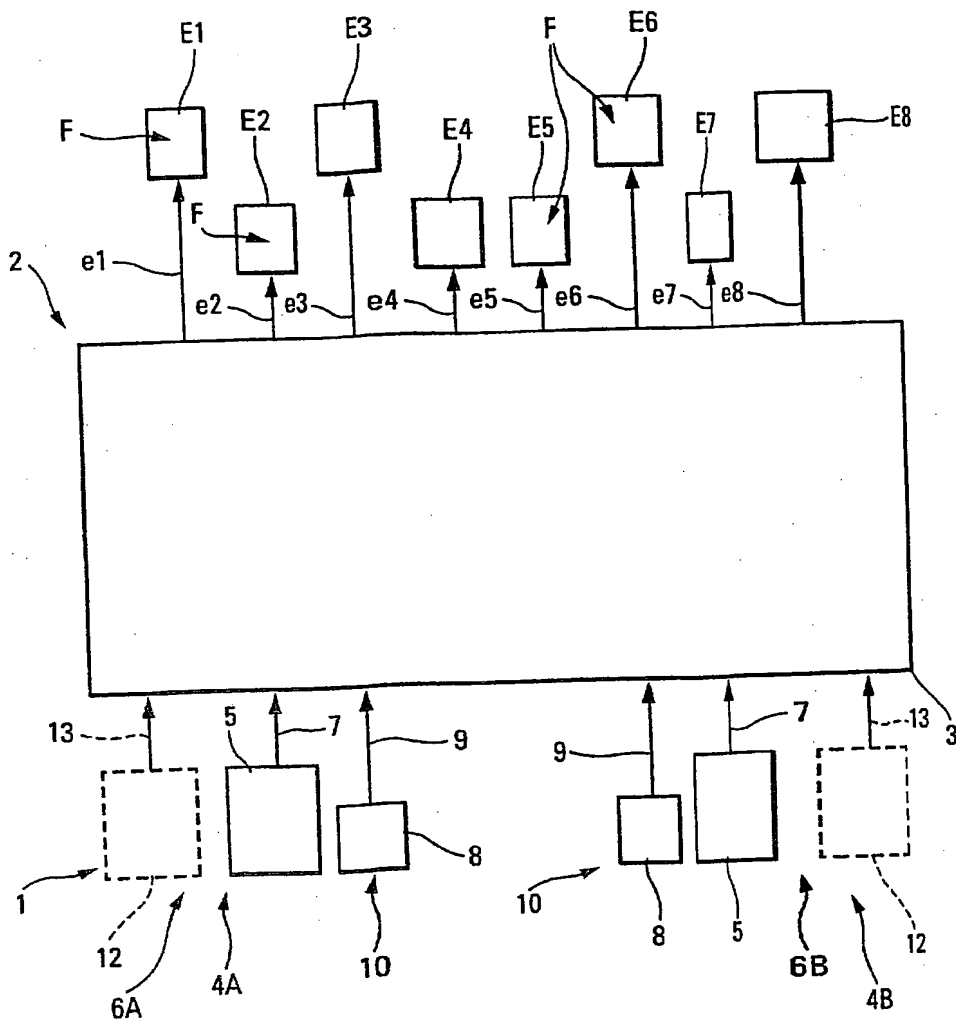


Fig. 1